

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI S.S. VISWANETHRA RAVI, JM**

**ITA No.1341/PUN/2018  
Assessment Year : 2012-13**

Shri Vijay Narayan Gaikwad  
Behind Golden Lines,  
At – Kiwale,  
Mamurdi, Pune – 412 101

**PAN NO. ALEPG4184C**

Appellant

V/s.

Dy. C.I.T. Cir. 10, Pune.

Respondent

Appellant by : None  
Respondent by : Shri M.G. Jasnani

Date of Hearing : 13-01-2022  
Date of Pronouncement : 09-03-2022

**ORDER**

**PER S.S. VISWANETHRA RAVI, J.M. :**

This appeal by the assessee against the order dated 23-04-2018 passed by the CIT(A)-6, Pune for A.Y. 2012-13.

2. We find no representation on behalf of the assessee nor filed any application seeking any adjournment. The assessee was absent, therefore, we proceed to hear the learned Departmental Representative after perusing the material available on record.

3. The only issue is to be decided is as to whether the CIT(A) was justified in confirming the addition made on account of payment of commission in the absence of assessee in the facts and circumstances of the case.

4. Heard the learned Departmental Representative and perused the material available on record.

5. We note that the assessee is an individual engaged in the business of agricultural and trading. The assessee has filed return of income declaring total income of Rs. 1,35,74,303/-. In scrutiny assessment, the A.O determined the same at Rs. 1,56,61,536/-, inter alia, making an addition on account of payment of commission. On perusal of assessment order, the assessee has shown expenditure on account of commission paid to various agents to the extent of Rs. 19,90,000/-. The A.O asked the assessee to justify the said expenditure with support of documentary evidence. We note that the assessee could not produce any concrete evidence against the said payment vide para 3.4 as noted by the A.O in his order. In the absence of relevant evidence, the A.O added the said amount to the total income of the assessee and being aggrieved with the addition made by the A.O, the assessee challenged the same before the CIT(A). However, we note that inspite of having issued notices intimating the date of hearing to the assessee, there was no representation on behalf of the assessee or by any person in the first appellate proceedings. We note that the CIT(A) held that the assessee was not interested to prosecute its case and by upholding the same, confirmed the addition made by the A.O ex parte of assessee. On perusal of statement of facts filed along with form No. 35, we note that the assessee pleaded before the CIT(A) that all the payments on account of commission were made through account payee cheques and also

pleaded that the assessee is ready to produce such evidence whenever opportunity comes for the same. Therefore, it is clear that the assessee is ready to produce evidence in support of the contention regarding payment of commission and there was no opportunity for him in the first appellate proceedings. Admittedly, the CIT(A) did not dispose of the appeal on merits, but however, he disposed of the case as discussed above, ex parte of assessee. Under sub-section (6) of section 250, the CIT(A) is expected to decide the appeal with reasons determining the points thereon. As we noted above, the appeal was disposed of by the CIT(A) ex parte of assessee. We therefore, deem it proper to remand the matter to the file of the CIT(A) and the assessee is at liberty to file evidence, if any, in support of his claim. Thus, the only ground raised by the assessee is allowed for statistical purposes.

6. In the result, the appeal is allowed for statistical purposes.

Sd/-

sd/-

(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Pune; Dated :9<sup>th</sup> March 2022

Ankam

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The Pr. CIT, 5 Pune.
4. The Addl. C.I.T. Range 10, Pune.
5. DR, ITAT, "B" Bench, Pune.
6. Guard File.

BY ORDER,

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Senior Private Secretary  
ITAT, Pune.

Date of dictation	13-01-2022
Date on which the typed draft is placed before the dictating member	13-01-2022
Date on which the typed draft is placed before the other member	
Date on which the approved draft comes to the Sr. PS/ PS	
Date on which the fair order is placed before the dictating member for pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	09-03-2022
Date on which the final order is uploaded on the website of ITAT	09-03-2022
date on which the file goes to the Bench Clerk	09-03-2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	